

Teaching Islamic Law at Public Universities in the Countries of the Former Yugoslavia

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Abstract

As one of the world's great legal systems, Islamic law is taught at many academic institutions, using different methodological approaches and within different institutional frameworks. The subject of this study is the teaching of Islamic law at public universities in the countries of the former Yugoslavia. It is based on the analysis of teaching curricula, textbooks, and additional literature used for courses at graduate, postgraduate and doctoral levels.

At almost all law schools in the former Yugoslav member states that were the subject of this study, Islamic law is taught within the framework of *General Political and Legal History* or *Comparative Legal History/Traditions and Political and Legal History* or *National Legal History*. Within these subjects, Islamic law is taught within a comparative historical and legal perspective and as part of previous positive law under the Ottoman state.

The scope of Islamic legal studies varies by state, however. For example, at the law faculties of the universities of Sarajevo, Belgrade, and Skopje, it is broadly taught at all three levels, while at the universities of Ljubljana and Podgorica it is not taught at all. In Sarajevo, Belgrade and Skopje, Islamic law is taught together with other great legal systems in historical and contemporary context, modelled on contemporary approaches to the study of Islamic law and legal cultures in general at academic institutions around the world.

Bearing in mind the turbulent history of these states, the marginalisation of religion (and so of religious law) during the socialist period, and the fact that these faculties educate secular legal experts, the extent to which Islamic law is taught at public universities is satisfactory for the profile of experts being educated by them.

Key words: Islamic law, legal history, former Yugoslavia, law faculties, public universities

Introduction

As one of the world's great legal systems, Islamic law is taught at various academic institutions across the Muslim and non-Muslim world, with the application of different methodological approaches and in different institutional frameworks. Several models of study may be discerned, based on aim. Thus, Islamic law is studied within programmes for the education of *ulama*, within programmes for the education of Sharia judges, programmes for the comparative study of law, and programmes of general Islamic studies.¹

Given this, Islamic law is taught at law schools as well as theology schools. Courses on Islamic law and jurisprudence are an integral and mandatory component of their curricula at all law schools in the Muslim world. There has also been an increase in the number of courses on Islamic law at law schools in the United Kingdom, the United States and Europe in recent years.²

It is possible to distinguish different approaches and different terminology. At law schools in Muslim countries, Islamic law is taught as positive law (whether as the only or one of the sources),³ generally within programmes for Sharia judges. In the West, Islamic law is taught within comparative law programmes or Islamic studies. Within the latter, Islamic law is studied in a broader context, with emphasis on how to apply it under contemporary conditions. Accordingly, in Muslim countries the term Sharia (or Sharia law) is used, while in non-Muslim countries it is Islamic or sometimes Muslim law.

In this study, we present an analysis of how Islamic law is taught at law schools at public universities in the countries of the former Yugoslavia. It is based on analysis of the curricula for courses within which Islamic law is taught at graduate, postgraduate and doctoral level, as well as textbooks and other mandatory and additional literature.

We start with a presentation of the public universities in Bosnia and Herzegovina. There are eight such universities, six of them in the Federation of Bosnia and Herzegovina (the University of Sarajevo, the University of Tuzla, "Džemal Bijedić" University in Mostar, the University of Mostar (West), the University of Zenica, and the University of Bihać), and the remaining two in the Republika Srpska (the University of Banja Luka and the University of East Sarajevo).

1 Fikret Karčić, *Islamske teme i perspektive*, (Islamic Themes and Perspectives) (Sarajevo: El-Kalem, 2009), pp. 33–46.

2 Shaheen S. Ali, "Approaches to the Teaching and Learning of Islamic Law: Sharing Some National and International Perspectives", <http://www.swlaw.edu/pdfs/jle/jle612ali.pdf>, accessed 15 May 2016.

3 Fikret Karčić, *Studije o islamskom pravu i institucijama* (Studies on Sharia Law and its Institutions) (Sarajevo: El-Kalem and CNS, 2011), pp. 166–211.

The University of Sarajevo is the oldest university in the country and, after a brief overview of the history of the application of Islamic law in Bosnia and Herzegovina, we give a more detailed analysis of how it is taught there. In the third and fourth part of this paper, we present an analysis of the teaching of Islamic law at the other public universities in Bosnia and Herzegovina and the main universities in the other countries of former Yugoslavia.

1. Teaching of Islamic Law at the Faculty of Law, University of Sarajevo

1.1. Historical context of the application of Islamic law in Bosnia and Herzegovina

Islamic law was applied in Bosnia and Herzegovina from the establishment of Ottoman rule until the end of the Second World War.⁴

As part of the Ottoman state, in which the prevailing principle was the integration of religion and state (*din ve devlet*) or the model of the organic unity of religion and state, Bosnia and Herzegovina treated Islamic law as a source of positive law. As such, it was applied to Muslims in their personal affairs, while the members of recognized religions – Christian denominations and Jews – had their own confessional organizations (*millet*) and the right to apply their own religious and customary law in matters of personal status (marriage, family, inheritance) and ecclesiastical matters. The secular law, contained in the *kanuns*, which included customary law (*urf*) that had to be consistent with the Islamic law, was applied on a territorial basis, i.e. to all subjects of the Ottoman State on its territory. With the establishment of Ottoman rule in Bosnia and Herzegovina, Islamic law thus became positive law for the Muslim population of Bosnia and Herzegovina and was applied through state Sharia courts.⁵

The Ottoman reforms known as the *Tanzimat* (1839–1876) limited the Sharia courts' jurisdiction to the marital, family and inheritance affairs of Muslims and *waqf* affairs. Sharia courts therefore became special judicial institutions.

During the Austro-Hungarian occupation and under the first Yugoslav state, Muslims had the status of a recognized religious community with the right to have Islamic law applied in their personal affairs by state Sharia courts. In this sense, their status was like that of Muslim minorities living in other non-Muslim countries.⁶

4 Karčić, *Studije o šerijatskom pravu i institucijama*, pp. 115–131

5 Mustafa Imamović, *Uvod u historiju i izvore bosanskog prava* (Introduction to the History and Sources of Islamic Law) (Sarajevo: Pravni fakultet Univerziteta u Sarajevu, 2006), pp. 38.

6 Fikret Karčić, "Od prava do etike: proces modernizacije i reinterpretacija šerijata u BiH," (From Ethics to Law: the Process of Modernization and Reinterpretation of Sharia Law in Bosnia and Herzegovina), *Godišnjak Pravnog fakulteta u Sarajevu*, LII (2009), pp. 225–234.

This application of Islamic law to Muslims in Yugoslavia was not an option but an obligation, since the Treaty on the Protection of Minorities concluded in Saint-Germain on 10 September 1919 committed the Kingdom of Serbs, Croats and Slovenes to ensuring that matters related to the family and personal status of Muslims would be resolved under Islamic law and Muslim practices (Article 10).⁷ These provisions were transferred to the St. Vitus Day Constitution, Article 9 of which stipulates that “in the family and inheritance matters of Muslims, the state Sharia courts will judge.”⁸ As under Austro-Hungarian rule in Bosnia and Herzegovina, the application of Sharia law was not a matter of religious autonomy but of specially regulated branches of the state judiciary.⁹

This situation lasted until 1946, when the Sharia courts were abolished by the Law on the Abolition of Sharia courts on the Territory of the People’s Republic of Bosnia and Herzegovina. The Islamic law thus officially ceased to be a source of positive law in Bosnia and Herzegovina. Even though the norms of Sharia law were no longer sanctioned by state coercion, however, they remained relevant to Muslims in Bosnia and Herzegovina. Since the norms of Sharia law consist of religious, ethical and legal sanctions, in the absence of legal sanctions, their religious and ethical perspectives remain relevant.¹⁰

1.2. Teaching of Islamic Law at the Faculty of Law in the period from 1946 to 1990

Islamic law has never been taught as an independent course at the Faculty of Law in Sarajevo.¹¹ Between its establishment (1946) and the beginning of the 1990s, Islamic law received only brief mentions within courses on *General Legal History*, *The History of the State*, and *The Law of Nations of the Socialist Federative Republic of Yugoslavia*. Even these mentions contained incorrect information. For example, in the first textbook on *General Legal History*,¹² taken over as official

7 Treaty of Peace Between the Principal Allied and Associated Powers and the Serb-Croat-Slovene State, *The American Journal of International Law, Supplement: Official Documents*, 14 (4), 1920, pp. 339

8 Imamović, *Uvod u historiju i izvore bosanskog prava*, pp. 83.

9 Karčić, *Studije o šerijatskom pravu i institucijama*, str. 127.

10 Karčić, “Od prava do etike: proces modernizacije i reinterpretacija šerijata u BiH,” pp. 225–234

11 One of the founders of the Faculty of Law in Sarajevo was professor Mehmed Begović. He was the first professor of Sharia Law at the Faculty of Law in Belgrade. Muslim students were obliged to study Sharia Law as a subject instead of Canon law. Mustafa Imamović, *Bilješke o razvitku i metodi historijsko-pravne nauke* (Notes on the Development of the Methods of Legal History) (Sarajevo: Samostalno autorsko izdanje, 2008), pp. 162.

12 Ferdo Čulinović, *Opća historija države i prava: feudalna, buržoaska, socijalistička država* (General Legal History: Feudal, Bourgeois, Socialist State) (Zagreb: Stručni odsjek N.S.O. Za-

literature from the Faculty of Law in Zagreb, Islamic law was described in Church (Christian) terms. Thus, *ijma* was defined as “a unanimous decision of the fathers of the Islamic church.”¹³

While Islamic law was said to be comprehensive and to contain “religious dogma on cleaning and washing, prayer, fasting, pilgrimage to Mecca, war against infidels,” the rules of war were singled out as particularly interesting “because in many ways these rules show the ideological superstructure for the development and life of a given society and the state.” It was further stated that “Muhammad said: ‘One day of war is more worthy to God than a whole month of fasting,’ which may explain ‘the bloody history of the Muslim empire which was characterized by permanent war.’”¹⁴

Basic information was then provided on the “division of Islamic law into civil and criminal law.” The civil law was stated to have included “norms and laws used in solving private legal relations among Muslims,” and that “the class character of law” was particularly expressed in criminal law, as “even though the penalties were less severe for the less wealthy, they affected them more harshly than the wealthy members of society, even if the latter were punished more strictly.”¹⁵

With regard to crimes and offenses, it was pointed out that it was “property crimes, with relatively the heaviest penalties, and offenses against morality, which were less severely punished,” that were considered the most important crimes. It was also stated that adultery was considered the most severe delict, “punishable by death,” and that the “death penalty was graded and enforced by burial, stoning, beheading and hanging.”¹⁶

Finally, it concluded that “Ottoman state law expressed its class character in its content and aims.”¹⁷

In later textbooks for *General Political and Legal History* (since 1963¹⁸), Islamic law, like canon law, was studied in the context of the law of the feudal period.¹⁹ It was explicitly stated that Sharia law “has a special importance for the history of our nation” because “it was applied in our countries over centuries,” on the one hand, and because “the Treaty on the Protection of Minorities concluded in Saint-Germain on 10 September 1919 obliged the old Yugoslavia to ensure

grebačkog sveučilišta, 1949).

13 Čulinović, *Opća historija države i prava*, pp. 190.

14 Čulinović, *Opća historija države i prava*, pp. 192.

15 Čulinović, *Opća historija države i prava*, pp. 192.

16 Čulinović, *Opća historija države i prava*, pp. 192–193.

17 Čulinović, *Opća historija države i prava*, pp. 193.

18 Đordo Samardžić, *Opšta istorija države i prava* (General Legal History and State) (Sarajevo: Univerzitet u Sarajevu, 1963).

19 Đordo Samardžić, *Opšta istorija države i prava II: Feudalni period* (General Legal History and State II: Feudal Period) (Sarajevo: Univerzitet u Sarajevu, 1964), pp. 153–168.

that issues of family and personal law of Muslims and *waqf* affairs be resolved according to Islamic law” on the other.²⁰

Next, the sources of the law, including both matrimonial and criminal law, were looked at, pointing out differences between the “sacral” (*fiqh*) and the secular (*kanuns*) Sharia law.²¹

In his textbook, *Opšta istorija države i prava II: pregled razvitka države i prava u feudalnom periodu*²² (*General Political and Legal History II: Overview of the Development of State and Law in the Feudal Period*), Đorđo Samardžić describes the relation between the spiritual and sacral government in the feudal period in the Ottoman Empire,²³ as well as the law in the feudal period, viz. the Sharia law (sources, sects, matrimonial law, criminal code).²⁴

The same approach was applied within the course on *Istorije država i prava naroda SFRJ (Histories of the States and Laws of the Peoples of the SFRY)*. Islamic law was studied as the “law in our states under the Turks,” describing the Sharia law and its sources in a short text (three pages long) and making a clear distinction between the “sacral” and state law.²⁵ Particular stress was placed on Sharia law having a “religious (confessional) character and as such [being] obligatory for Muslims.”²⁶

1.3. Teaching of Islamic Law at the Faculty of Law in the period from 1992 to 2005

Between 1992 and reform of the educational system by introduction of the Bologna system in Bosnia and Herzegovina, Islamic law was presented in more detail within the course on *General Political and Legal History*. In the textbook, *Opća historija države i prava (General Political and Legal History)*, in use until 2007, in addition to treating the sources of law, matrimonial law, and criminal law, topics

20 Samardžić, *Opšta istorija države i prava*, pp. 153–154.

21 Samardžić, *Opšta istorija države i prava*, pp. 157–167.

22 Đorđo Samardžić, *Opšta istorija države i prava II: pregled razvitka države i prava u feudalnom periodu* (*General Legal History and State II: Overview of the Development of State and Law in the Feudal Period*) (Sarajevo: Univerzitet u Sarajevu, 1963).

23 Đorđo Samardžić, *Opšta istorija države i prava II*, pp. 74, Đorđo Samardžić, *Opšta istorija države i prava* (1963), pp. 149–163; Đorđo Samardžić, *Opšta istorija države i prava* (Sarajevo: Univerzitet u Sarajevu, 1966), pp. 333–349.

24 Đorđo Samardžić, *Opšta istorija države i prava II*, pp. 149–161, Đorđo Samardžić, *Opšta istorija države i prava* (1963), pp. 250–259, Đorđo Samardžić, *Opšta istorija države i prava* (1966), pp. 349–361.

25 Avdo Sućeska, *Istorija države i prava naroda SFRJ (Histories of the State and Law of the Peoples of the SFRY)* (Sarajevo: „Svjetlost“ OOUR Zavod za udžbenike i nastavna sredstva, 1971), pp. 116–119, (edition 1981), pp. 120–124, (edition 1988), pp. 121–124.

26 Sućeska, *Istorija države i prava naroda SFRJ* (1981), p. 123.

elaborated in previous textbooks as well, there was a chapter on “the Arabian State” that discusses the law on real property, the law on obligations, law on inheritance and the organisation of the courts and judicial process.²⁷

More detailed analysis of Islamic law was provided in the course on *Historija države i prava Bosne i Hercegovine (Political and Legal History of Bosnia and Hercegovina)* as well. This course was introduced after the international recognition of Bosnia and Hercegovina as an independent and sovereign state, to replace the course on *Istorije država i prava naroda SFRJ (Histories of the States and Laws of the Peoples of SFRY)*. The Ottoman period of the history of Bosnia and Hercegovina was taught within this course. The chapter on “Bosnia under the Ottoman Empire” and the sub-chapter on “Autonomy of law in Bosnia during the Ottoman era” dealt with the sources of law (of Sharia law), the criminal law, matrimonial law, inheritance law and judicial organisation.²⁸

1.4. Teaching of Islamic Law at the Faculty of Law in the period from 2005 to 2016

Under the reforms of the teaching curriculum being applied since 2005/2006,²⁹ Islamic law is to be studied within a comparative historical and legal perspective or “vertical comparison” and as one of the elements of Bosnian law during the Ottoman period in the history of Bosnia and Hercegovina.

One can therefore identify two models for the study of Islamic law at the Faculty of Law: study from a comparative historical and legal perspective and study of the Islamic law as former positive law within Political and Legal History (of Bosnia and Hercegovina).

In the following text we provide an overview of both perspectives on the study of Islamic law at the Faculty of Law of the University of Sarajevo from 2005 to the present at the undergraduate, postgraduate and doctoral levels, on the basis of analysis of the teaching curricula, textbooks, and other recommended mandatory and additional literature.

27 Raifa Festić, *Opća historija države i prava (General Legal History and State)* (Sarajevo: Studentska štamparija Univerziteta u Sarajevu, 1998), pp. 137–146.

28 Mustafa Imamović, *Historija države i prava Bosne i Hercegovine (Political and Legal History of Bosnia and Hercegovina)* (Sarajevo: Magistrat, 2003), pp. 131–137.

29 *Vodič kroz dodiplomski studij na Pravnom fakultetu Univerziteta u Sarajevu (Guide for Undergraduate Studies at the Faculty of Law, University of Sarajevo)* (Sarajevo: Pravni fakultet Univerziteta u Sarajevu, 2005).

2. The study of Islamic Law from a comparative historical and legal perspective

2.1. Undergraduate studies

Since the 2005/2006 academic year, changes have been introduced in the plan and length of the *General Political and Legal History* course within the new curriculum at the Faculty of Law in Sarajevo. Instead of a single two-semester course, there are now two single-semester courses: *Comparative Legal History*, taught during the first year of studies, and *Modern Legal Codifications*, taught during the second year.

The framework of the course on *Comparative Legal History* includes the study of representative legal systems from ancient times to the modern era, offering overviews of state and law in specific countries, in line with the presentational approach adopted: (I) State, which includes consideration of the relevant historical context, the organisation of government, state ideology, the courts and judicial proceedings and (II) Law, which includes sources for understanding the specific approaches to law and justice, substantive law including personal status, property law, family law, inheritance law, the criminal code and international law. Representative legal systems are considered over three periods: the old era (3000 BC–500 AD), the middle ages (500–1500), and the new era (1500–1900).

In studying the middle ages (500–1500), the focus is on approaching state and law through the identification of key legal ideas and institutes and their study in comparative context in France, the Byzantine Empire, and the Islamic State, the states of importance for further development of three major legal cultures and civilisations: the Orthodox (Byzantine Empire), Western and European Continental (France), and the Islamic (the Islamic State).

Common characteristics of the law in mediaeval Mediterranean countries are given at the beginning of the chapter (the relationship between religion and law, the significance of the individual principle in the application of law, and the importance of personal status for the scope of an individual's rights and obligations) as well as specific characteristics of the law in the Byzantine Empire and France, on the one hand, and the Islamic law, on the other (differences in the sources of law, establishment of the codification of religious and secular law, and the concept of the sanctity of the state, based on the idea of the continuity of the Holy Roman Empire as opposed to the Islamic State, which was called the *khilafah*, as a type of religious and political leadership without connotations of sanctity or any concept of a holy land whatsoever).³⁰

30 Fikret Karčić, *Komparativna pravna historija: predavanja i pravni tekstovi* (Comparative Legal History: lectures and legal texts) (Sarajevo: Pravni fakultet Univerziteta u Sarajevu, 2007), pp. 69-70.

The study of Islamic law in the course on *Comparative Legal History* involves an overview of Islamic law in the classical formulation achieved during the period of the Abbassids. It includes the sources of law, the concepts of law and justice, and substantive law (personal status, property law, family law, inheritance law, criminal law and international law).³¹

Compared to previous textbooks, this course offers deeper insight into all the above mentioned issues of Islamic law. For example, alongside the key fixed sources of law – the Qur’an as the word of God and the collections of hadith as “witnesses’ reports on the words, deeds, and tacit affirmations of the Prophet of Islam and his practice, which has a normative character for Muslims”³² – it also deals with the sources of our understanding of the law: the works of Muslim legal professionals, the registers of the Sharia courts (*sijjils*), which represent an important source for the understanding of the “law in action,” i.e. its practical implementation, and historiographical sources. The difference between the Sharia, which is “meta-historical and unchangeable,” and *fiqh*, which is “the integrity of human interpretation of Sharia shaped into a legal system”³³ and so is historically conditioned and adaptable and corresponds to jurisprudence in Roman law, is stressed. Finally, a more detailed analysis is provided of the substantial and procedural norms of Islamic law.

The course on *Moderne pravne kodifikacije* (Modern Legal Codifications) mostly covers the codifications of 19th and 20th century civil law. After a brief explanation of the reasons for the slow development of the process of codification – *taknin* (“to draft a law”) in Muslim states – the Islamic concept God (*el-hakim*) as lawmaker did not encourage codification – the two major “Islamic” codifications are thought: the Ottoman civil code or Majella and the Egyptian civil code.

This is preceded by an explanation of the process of strengthening state legislation or the issuance of *kanun* that culminated in the Ottoman Empire. *Kanun*, as “the sultan’s custom” (*urf-i sultani*) or the “ottoman custom” (*urf-i osmani*) is compared to the codifications of the common law in Europe during late Middle Ages,³⁴ etc.

Regarding the Ottoman civil code as a codification of Sharia law according to the interpretation of the Hanafi school of law, its establishment as the Majella is studied, as are its sources, system, character and reception. This is followed by selected legal texts (99 legal maxims).³⁵ The Egyptian civil code,³⁶ as a “synthesis

31 Karčić, *Komparativna pravna historija*, pp. 112–119.

32 Karčić, *Komparativna pravna historija*, p. 112.

33 Karčić, *Komparativna pravna historija*, p. 114.

34 Karčić, *Moderne pravne kodifikacije*, p. 21.

35 Karčić, *Moderne pravne kodifikacije*, pp. 95–99.

36 Karčić, *Moderne pravne kodifikacije*, pp. 119–122.

of European and Islamic legal institutions³⁷ that showed new relations between the Sharia and positive law in the Muslim world,” is also presented, with due attention to the fact that, by using the Sharia law as a source but not the exclusive source of codification, it was particularly “appropriate for reception in other Arab countries that decided for the path of modernisation.”³⁸

In addition to the mandatory courses, the curriculum offers several optional courses that include the study of Islamic law. For example, the course on *Pravne kulture* (Legal Cultures) includes an overview of different legal cultures, considering their concepts of law, sources of law, and judicial procedures. Legal cultures studied from a comparative perspective are: the culture of civil/European continental law, Anglo-American legal culture, Jewish legal culture, canon law, Islamic legal culture and mixed legal cultures.

The course on *Stare kodifikacije* (Old Codifications), whose aim is the development of students’ ability to consider legal institutes in historical and comparative perspective, includes the study of Ottoman *kanunamas*.³⁹

2.2. Postgraduate studies

The postgraduate level applies a changed approach and concept to study in general, and so to the study of Islamic law as well. Unlike undergraduate studies, where textbooks provide the basic data on the sources and concept of law, on substantive Islamic law, and on judicial procedure in the classical period, postgraduate studies use and critically assess contemporary texts on specific issues, with the aim of providing deeper insight into Islamic law from an historical and comparative perspective.

Selected topics from the great legal cultures are studied from an historical and comparative perspective (“vertical comparison”) within the mandatory course on *Izabrane teme iz komparativne pravne historije* (*Selected Topics from Comparative Legal History*) at the postgraduate level within the Legal History programme. During comparison, each question is considered within three legal systems: a) old Middle Eastern, b) Islamic law and c) modern English law. The topics studied and compared within these legal systems are: the concept and sources of law, courts and trials, the evolution of law, status, contracts, ownership, marriage and family, crime and punishment (criminal code), war and peace (international law).⁴⁰

37 Karčić, *Moderne pravne kodifikacije*, p. 121.

38 Karčić, *Moderne pravne kodifikacije*, p. 121.

39 This subject has not been lectured on yet.

40 The mandatory literature for this subject is: John A. Makdisi, “The Islamic Origins of the Common Law,” *North Carolina Law Review*, 77:5 (1999), 1635–1739; Wael B. Hallaq, *The Origins and Evolution of Islamic Law* (Cambridge: Cambridge University Press, 2005), pp. 150-177; Fikret Karčić, “Koncept građanstva u savremenoj islamskoj pravnoj misli”, (The

Savremeni problemi pravne reforme u muslimanskom svijetu (Contemporary Problems of Legal Reform in the Muslim World) is offered as an optional course. The only course dealing exclusively with Islamic law, it focuses on contemporary issues related to legal reform in the Muslim world. Considering that the legal systems of Muslim countries consist of two components, secular and Islamic law, any attempt at reform, but particularly modernisation, always faces the issue of the possibility of Islamic legal reform, its legitimisation, and methods.

Basic questions studied on this course include: theoretical and practical possibilities of Sharia Law reform; modernising jurisprudence and legislation and methods of reform; the general extent and perspectives of modernising jurisprudence; the challenge of equality and responses of the Islamic legal school of thought, and authority and Islamic normativity.⁴¹

On the Comparative Law programme within the mandatory course on *Svjetske pravne tradicije (Legal Traditions of the World)*, Islamic law is taught in comparative and contemporary perspective or “horizontal comparison”, alongside civil and common law. Besides comparing the selected areas of substantive law in these three legal systems, the course analyses relations between legal cultures: legal transplants, structure, sources, procedure, etc.⁴²

Within the elective course on *Religijske pravne kulture (Religious Legal Cultures)* at the Comparative Law programme, Islamic legal tradition is studied alongside Jewish legal tradition and Canon law. Within this course, the concept of religious legal cultures, the aims and methods of studying religious legal cul-

Concept of Citizenship in Contemporary Islamic Thought), *Godišnjak Pravnog fakulteta u Sarajevu*, XLVI-2003 (2004), pp. 313–329; Asifa Quraishi, Frank E. Vogel (ed.) *The Islamic Marriage Contract: Case Studies in Islamic Family Law* (Cambridge, Massachusetts: Harvard University Press, 2008); Khaled Abou El-Fadl, „Džihad, ratovanje i terorizam“ (Jihad, Warfare and Terrorism), in: *Savremene muslimanske dileme: pluralizam, ljudska prava, demokratija, pravda, džihad, ekstremizam, terorizam*, ed. by Ahmet Alibašić and Muhamed Jusić, (Sarajevo: Centar za napredne studije, 2010), pp. 273–299; Louis J. Swift, “Early Christian Views on Violence, War, and Peace,” in: *War and Peace in the Ancient World*, ed. by Kurt A. Raaflaub, (Blackwell Publishing, 2007), pp. 279–295.

41 The mandatory literature for this subject is: Fikret Karčić, *Društveno-pravni aspekt islamskog reformizma* (Social and Legal Aspects of Islamic Reformism) (Sarajevo: Islamski teološki fakultet, 1990); Kari Vogt et al., *New Directions in Islamic Thought: Exploring reform and Muslim Tradition* (London: I.B.Taurus, 2009); Abdullahi A. An-Naim (ed.), *Islamic Family Law in A Changing World: A Global Resource Book* (London-New York: Zed Books, 2002); Khaled Abou El-Fadl, *Islam i izazov demokracije* (Islam and the Challenges of Democracy) (Sarajevo: Buybook, 2006); Abdullahi Ahmed An-Naim, *Islam and the Secular State: Negotiating the Future of Shari'a* (Cambridge, London: Harvard University Press, 2008); Noah Feldman, *The Fall and Rise of the Islamic State* (Princeton-Oxford: Princeton University Press, 2008).

42 Patrick H. Glenn, *Legal Traditions of the World* (Oxford: Oxford University Press, 2004); Vernon Palmer et. al., *Mixed Legal Systems, East and West* (London, New York: Routledge, 2015); Fikret Karčić, “Pravne kulture: koncept, izučavanje i klasifikacija”, *Godišnjak Pravnog fakulteta u Sarajevu*, XLVIII (2005), pp. 287-299.

tures, methods of comparison of religions through law, and selected topics such as personal status, the position of women, punishment, etc. are studied in comparative perspective.⁴³

2.3. Doctoral studies

At the doctoral level, Islamic law is taught within the mandatory course on *Pravne kulture Jugoistočne Evrope (Legal Cultures of the Southeast Europe)*. Focusing on the legal pluralism of the Southeast Europe, tradition, and the transformation of legal cultures in the region, this course studies the traditions of Roman and Byzantine law and of Sharia Law.

Within the tradition of Sharia Law, the following topics are included: the general Sharia rules, *usuli fiqh* – the methodology of Islamic law; the legal nature, place and importance of fatwa in Sharia law and comparison with the *responsa* in Roman law;⁴⁴ the relation between *fiqh* and Roman law and the possibility of influence of Roman law on *fiqh*. This is followed by the study of Sharia law's implementation in Bosnia and Herzegovina and Sharia's influence on pre-war Yugoslav law, etc.⁴⁵

3. The study of Islamic law as the positive law of the Ottoman state

3.1. Undergraduate studies

A mandatory course in the 2nd semester of undergraduate studies, *Bosansko komparativno pravo (Bosnian Comparative Law)* focuses on the comparative legal development of legal institutions in Bosnia and Herzegovina, tracked from the early South Slavic Middle Ages through the Ottoman and Austro-Hungarian period to the establishment of a joint Yugoslav state and its development until 1992. Special attention is paid to comparative study in order to understand the mutual influence and intertwining of Sharia and canon law, e.g. of Venetian law within

43 The mandatory literature for this course is: *Religion, Law and Tradition: Comparative Studies in Religious Law*, ed. Andrew Huxley (London: Routledge Curzon, 2004); *Routledge Handbook of Religious Laws*, ed. by Silvio Ferrari and Rossella Bottoni (London: Routledge, 2004); Neusner, Jacob, and T. Sonn, *Comparing Religions Through Law: Judaism and Islam* (London: Routledge, 1999); Huxley A., *Religion, Law and Tradition: Comparative Studies in Religious Law* (London: Routledge, 2002); Nikola Škalabrin, *Uvod u kanonsko pravo* (Katolički bogoslovni fakultet Sveučilišta u Zagrebu, Teologija u Djakovu, 1994).

44 Karčić, *Studije o šerijatskom pravu i institucijama*, pp. 50–52.

45 Karčić, *Studije o šerijatskom pravu i institucijama*, pp. 50–52.

Ottoman and Tanzimat law, etc. Even though this course takes a comparative approach, it does not put Islamic law in a wider context so much as it compares different components of positive law in Bosnia and Herzegovina throughout history.

3.2. Postgraduate studies

A mandatory course at postgraduate level in Comparative Law,⁴⁶ *Razvoj pravne misli i pravna praksa u BiH* (Development of Legal Thought and Legal Practice in Bosnia and Herzegovina) includes the study of legal thought and legal practice in Bosnia and Herzegovina through their mutual influence, with a stress on the comparative legal approach. With respect to Islamic law, the focus is on the Ottoman legal order and its implementation in Bosnia. This is followed by a study of Sharia and *millet* law,⁴⁷ the *tanzimat*, and the beginnings of the Europeanisation of law in Bosnia and Herzegovina, as well as the continuity of *tanzimat* law and the establishment of a new Austro-Hungarian legal order in Bosnia and Herzegovina

A somewhat detailed introduction is given into the relations of church and state in the Kingdom of Serbs, Croats and Slovenes/Yugoslavia, the separation of state and religion after 1945, and the relations of the state and the religious communities in Bosnia and Herzegovina from 1990 to 2010 in the course on *Sekularna i nacionalna država* (The secular and the national state), which is an optional course at postgraduate level in the Legal History programme.

3.3. Doctoral studies

Finally, doctoral studies offer deeper insight into Bosnian law in the Ottoman period through the mandatory course on *Bosansko pravo: tranzicija i tradicija* (*Bosnian Law: Transition and Tradition*). The course studies the institutions of Bosnian law in the context of changes in the political (state) and legal frameworks. Special attention is paid to the study of law in the Ottoman period. The following

46 This programe has not been lectured on yet at the Department of Legal History and Comparative Law. The analysis of Islamic legal studies is based on the curriculum.

47 Enes Durmišević, *Šerijatsko pravo i nauka šerijatskog prava u Bosni i Hercegovini u prvoj polovini XX stoljeća* (Sharia Law and Sharia Legal Science in Bosnia and Herzegovina in the First Half of the 20th Century) (Sarajevo: Pravni fakultet Univerziteta u Sarajevu, 2008); Ekmeleddin Ihsanoglu (ed.), *Historija osmanske države i civilizacije* (History of the Ottoman State and Civilization) (Sarajevo, Orijentalni institut u Sarajevu, 2004); Enes Durmišević, *Uspostava i pravni položaj Rijasete Islamske zajednice u BiH 1882–1899*. (The Foundation and Legal Position of the Islamic Community in Bosna and Herzegovina 1882–1899) (Sarajevo: Magistrat, 2002).

issues are analysed: the institutions of medieval law in Bosnia and transition to the frameworks of classical Ottoman law, the modernisation of classical Ottoman legal institutions in the period of the *tanzimat* reforms in the 19th century, the reception of Ottoman law in Bosnia and Herzegovina after the 1878 occupation, and the issue of the transition of legal systems generally.⁴⁸

4. Teaching Islamic law at other public universities' law schools in Bosnia and Herzegovina

4.1. Undergraduate studies

As already pointed out, there are eight public universities in Bosnia and Herzegovina with law schools. Six are in the Federation of Bosnia and Herzegovina and two in the Republika Srpska.

The study of Islamic law at the other law faculties in the Federation of Bosnia and Herzegovina follows the model of the University of Sarajevo's Law Faculty. At the undergraduate level Islamic law is thus taught within the framework of *General Political and Legal History* (University of Bihać, Banja Luka, East Sarajevo, and West Mostar) or of *Comparative Legal History* ("Džemal Bijedić" University in Mostar, University of Tuzla, University of Zenica). Within these subjects, it is taught under a teaching unit termed "the Arab-Islamic world," which focuses largely on the Islamic State from the 7th century on and its legal system.

Islamic law is also studied within the framework of *Political and Legal History of Bosnia and Herzegovina* (Zenica), *Bosnian Comparative Law* (Tuzla, "Džemal Bijedić" Mostar, Zenica, Bihać) and *National Legal and Political History* (West Mostar) or *National Legal History* (Banja Luka and East Sarajevo). Here, however, the scope of the study of Islamic law is considerably less than at the Faculty of Law, University of Sarajevo. The issues studied and the literature used are also significantly different. For example, the questions provided to prepare for exams in *National Legal History* at the Faculty of Law in East Sarajevo include only one on the history of the Ottoman Empire, namely about "Society in the Ottoman Empire, the feudal system, and the *čifluk*⁴⁹ process."⁵⁰ Within the framework of

48 Ajdin, "Pravo kod Osmanlija," pp. 515–585; Durmišević, *Šerijatsko pravo i nauka šerijatskog prava u Bosni i Hercegovini*; Karčić, *Studije o šerijatskom pravu i institucijama*; Eugen Sladović, *Islamsko pravo u Bosni i Hercegovini* (Islamic Law in Bosnia and Herzegovina) (Belgrade, 1926); Karčić, *Šerijatski sudovi u Jugoslaviji 1941–1918*.

49 Čifluk (a type of feudal holding under Ottoman rule).

50 *Ispitna pitanja iz Nacionalne pravne istorije - 2016/2017. godina*, <http://www.pravnifs.rs/pale/osnovni-studij/ispitna-pitanja-pa/6811-ispitna-pitanja-iz-nacionalne-pravne-istorije>, accessed 13 August 2017.

General Legal History, there are two questions on the “sources” and the “peculiarities” of Sharia law.⁵¹

On the other hand, Islamic law is not studied at the Faculty of Law, University of (West) Mostar, under the module on “The Arab-Islamic State” but under the “Turkish State and Law from the 14th to the 19th Century.”⁵² An historical overview of “The Turkish state” in the period is given, as well as of state organization and law and “the sources of Sharia law, *kanun* law and some branches of Sharia law.” The University of (West) Mostar’s curriculum is modelled on that of the Faculty of Law of the University of Zagreb, as well as its recommended literature.⁵³

The course on *Moderne pravne kodifikacije* (Modern Legal Codifications) is taught at Zenica, the “Džemal Bijedić” University in Mostar, and in Bihać as an optional subject.⁵⁴

4.2. Postgraduate studies

There is a mandatory course on *Razvoj pravne misli i pravna praksa u BiH* (Development of Legal Thought and Legal Practice in Bosnia and Herzegovina) at postgraduate level at the University of Tuzla on the Comparative Legal History and Comparative Law programme (begun in the 2016/17 academic year), within which Islamic law is taught following the model described above. Islamic law is also taught within the Comparative Law course, which includes, alongside civil and common law, the teaching of Islamic law in a contemporary perspective.⁵⁵

Within the Political and Legal History programme at the University of Zenica, Islamic Law is taught as part of the course on *Bosanskohercegovačka pravna tradicija i Evropa* (Bosnian and Herzegovinian Legal Tradition and Europe), within the unit on “Bosnia and Herzegovina in the Ottoman Empire.”⁵⁶

51 *Ispitna pitanja iz Opšte pravne istorije - 2016/2017. godina*, <http://www.pravnifis.rs/pale/osnovni-studij/ispitna-pitanja-pa/7393-ispitna-pitanja-iz-op%C5%A1te-pravne-istorije-2016-2017-godina>, accessed 13 August 2017.

52 *Nastavni program za sve godine preddiplomskog studija Pravo u akademskoj 2016/2017 godini*, <http://pf.sve-mo.ba/diplomski-studij/diplomski-studij-prava-4-1/program.html>, accessed 13 August 2017; *Nastavni plan za sve godine integriranog bolonjskog studija (5+0 NP) na Pravnom fakultetu Sveučilišta u Mostaru u akademskoj 2015./2016. godini*, <http://pf.sve-mo.ba/diplomski-studij/integrirani-bolonjski-studij-5-0/nastavni-plan.html>, accessed 13 August 2017

53 Šefko Kurtović, *Opća povijest prava i države I: Stari i srednji vijek* (Zagreb, 2005)

54 *Nastavni plan i program dodiplomskog studija*, <http://www.prf.unze.ba/>, accessed 13 August 2017; *Nastavni plan i program I ciklusa studija akademске 2013/14. godine*, <http://prf.unbi.ba/ciklus1.php>, accessed 13 August 2017; <http://www.pf.unmo.ba/studij/i-ciklus.aspx>, accessed 13 August 2017.

55 *Studijski program II ciklusa studija (sa primjenom od akademske 2016/17. godine)*, http://pf.un-tz.ba/?page_id=96, accessed 13 August 2017.

56 *Nastavni plan i program magistarskog studija na Pravnom fakultetu Univerziteta u Zenici*, <http://www.prf.unze.ba/Docs/Novi%20nastavni%20plan%20i%20program%20-%20PDS.pdf>, accessed 13 August 2017.

At the Faculty of Law, University of Banja Luka, Islamic law is taught as part of the course on *Uporedna pravna tradicija* (Comparative Legal Traditions) under the Legal History Studies programme.⁵⁷ “The emergence of the Sharia law tradition in the Arab State” is taught as part of the legal traditions of the Middle Ages. Alongside the textbook on *Comparative Legal Traditions* from the Law Faculty in Belgrade, the obligatory literature for the subject includes *Studies of Sharia Law*⁵⁸ by Fikret Karčić and *The Ottoman Empire*⁵⁹ by Halil Inaldžik.⁶⁰

Finally, there is no Legal History and Comparative Law programme on offer at the law faculties in Mostar, Bihać and East Sarajevo. Islamic law is thus not taught at the postgraduate level at these universities.

4.3. Doctoral studies

According to the curriculum for doctoral studies in use as of the 2017/18 academic year, Islamic Law is taught as part of the *Pravne kulture Jugoistočne Evrope* (Legal Cultures of South-Eastern Europe) course at the University of Tuzla, which follows the University of Sarajevo’s Law Faculty’s model at all levels.⁶¹

Aside from the universities of Tuzla and Sarajevo, Islamic Law is taught only at the University of Zenica at doctoral level. The *Political and Legal History* programme offers *Primjena građanskih zakonika u BiH* (The Application of Civil Codes in Bosnia and Herzegovina), which provides basic information on “The Arabian Caliphate, Ottoman Turkey and the Majella.”⁶²

5. Teachings Islamic law at the major public universities in countries of former Yugoslavia

5.1. Undergraduate studies

In the countries of former Yugoslavia, Islamic law is taught at undergraduate level at the Faculty of Law of the University of Belgrade, as part of the *Comparative*

57 *Studijski program master studije: Pravno-istorijske studije*, <https://pf.unibl.org/pravno-istorijske-studije-master.php>, accessed 13 August 2017.

58 Fikret Karčić, *Studije o šerijatskom pravu* (Zenica, bemust, 1997).

59 Halil Inaldžik, *Osmansko carstvo* (Beograd: 1977).

60 *Studijski program master studije: Pravno-istorijske studije*, <https://pf.unibl.org/pravno-istorijske-studije-master.php>, accessed 13 August 2017.

61 *Studijski program trećeg ciklusa – doktorskog studija (sa primjenom od ak. 2017/18)*, http://pf.untz.ba/?page_id=98, accessed 14 August 2017.

62 *Elaborat doktorskog studija na Pravnom fakultetu Univerziteta u Zenici* <http://www.prf.unze.ba/Docs/Elaborat%20doktorski%20studij.pdf>, accessed 15 August 2017.

Legal Tradition module, and at the Faculty of Law of the University of Zagreb, as part of the *General Legal and Political History* module, where Islamic law is taught as part of the “Turkish state and Law from the 14th to the 19th Century” teaching unit.⁶³

The (“Iustinianus Primus”) Faculty of Law at the (“Ss. Cyril and Methodius”) University of Skopje offers comprehensive and detailed study of Islamic law at all three levels. At the undergraduate level, Islamic Law is taught as part of the *Istorija na pravoto* (Legal History) module on the “historical development and organization of the state and Sharia law” within the “Arab-Islamic state.”⁶⁴

At the law faculties at the University of Ljubljana and Podgorica, Islamic law is not taught at the undergraduate level within *Legal History* subjects.

5.2. Postgraduate studies

The Faculty of Law of the University of Belgrade offers a Comparative Historical Module at the postgraduate level. Islamic law is taught as part of the courses on *Comparative Legal Traditions* and *Oriental Legal Tradition* offered in this module.

At the “Iustinianus Primus” Faculty of Law of “Ss. Cyril and Methodius” University of Skopje Islamic law is taught in three courses at the Legal History programme. Firstly, within the *Istorija Osmanskog carstva* (History of the Ottoman Empire) course, there are lectures on “Ottoman law, the millet system and Islamic tradition.” The course on *Pravo u srednjem vijeku* (Law in the Middle Ages) covers “the emergence, historical development and organization of the Arab state.” Finally, the course on *Makedonsko pravo pod osmanskom vlašću*⁶⁵ (Macedonian Law under Ottoman Rule) studies the “bases of law in the Ottoman state, the establishment of Ottoman rule in Macedonia in 1453, Ottoman rule in Macedonia up until the 18th century and the *millet* system, canon law and customs.”⁶⁶

At the Law Faculty in Zagreb there is no organised Legal History postgraduate programme. Legal History is taught as part of the integrated undergraduate

63 *Integrirani preddiplomski i diplomski pravni studij Informacijski paket za akademsku godinu 2015./2016. (Izvedbeni plan nastave)*,

https://www.pravo.unizg.hr/_news/17221/4_Integrirani_preddiplomski_i_diplomski_pravni_studij%202015%202016%20-%207%202015.pdf, accessed 14 August 2017.

64 *Nastavna programa za Istorija na pravoto*, <http://www.pf.ukim.edu.mk/images/Studii/Pravni/IstorijaNaPravoto.pdf>, accessed 14 August 2017.

65 Nerkez Smailagic, *Klasična kultura Islama*, I, II, (Zagreb: 1976). J. von Hammer, *Historija Turskog (Osmanskog) carstva*, tom I-III, (Zagreb, 1979); A. Stojanovski, *Makedonija vo tursko-to srednovekovine* (Skopje: 1989).

66 *Curriculum for the Macedonian Law under the Ottoman Rule* <http://www.pf.ukim.edu.mk/images/Studii/Pravni/IstorijaNaPravoto/PravotoVoMakedonijaPodOsmanskaVlast.pdf>, accessed 14 August 2017.

and graduate university study programme within the *General Legal and Political History* module.⁶⁷

5.3. Doctoral studies

Islamic law is taught under the *Prvnoistorijska uža naučna oblast* (Legal Historical Specialised Scientific Area) programme at the doctoral level in the Faculty of Law at the University of Belgrade. It is taught within the courses on *Comparative Legal Traditions* and *Oriental Legal Tradition*. For the former, the required reading includes Wael B. Hallaq, *Authority, Continuity, and Change in the Islamic World* (Cambridge, 2001), Sami Zubaida, *Law and Power in the Islamic World* (London, 2003), Joseph Schacht, *An Introduction to Islamic Law* (Oxford, 1982), Mallat Chibli, *Introduction to Middle Eastern Law*, (Oxford, 2007), El-Karadavi, *Islamsko pravo* (Islamic Law), (Sarajevo, 1989) and Fikret Karčić, *Historija šerijatskog prava* (History of the Sharia Law), (Sarajevo, 2005).⁶⁸

At the University of Zagreb, Islamic law is taught within the General Doctoral Studies programme.⁶⁹ The *Basics of Legal Culture* module includes Islamic law and legal culture alongside the major legal cultures in the world, viz. European (Western), Jewish, Hindu, Chinese and Japanese legal cultures.⁷⁰

Finally, at the “Iustinianus Primus” of the University of Skopje, Islamic law is taught as part of the *Legal History* course in the *General Doctoral Studies* and the *Political and Legal History of Macedonia*, *Comparative Legal Traditions II* and *Political and Legal History of the Balkan States* within the Legal History programme.⁷¹

As mentioned above, the Faculty of Law in Ljubljana⁷² and the Faculty of Law in Podgorica⁷³ do not offer a Legal History programme at postgraduate and doctoral levels. At the Faculty of Law in Ljubljana Legal History is taught within the general postgraduate programme, but it does not include Islamic legal history.

67 *Integrirani preddiplomski i diplomski pravni studij Informacijski paket za akademsku godinu 2015./2016. (Izvedbeni plan nastave)*, https://www.pravo.unizg.hr/_news/17221/4_Integrirani_preddiplomski_i_diplomski_pravni_studij%202015%202016%20-%207%202015.pdf, accessed 14 August 2017.

68 *Studijski program za doktorske studije na Pravnom fakultetu Univerzitet u Boegradu: Prvnoistorijska uža naučna oblast*, <http://www.ius.bg.ac.rs/pds/npl/Literatura%20-%20Prvnoistorijska%20uza%20naučna%20oblast%20-%202014-2015.pdf>, accessed 14 August 2017.

69 *Poslijediplomski doktorski studij iz pravnih znanosti na Pravnom fakultetu Sveučilišta u Zagrebu*, http://www.pravo.unizg.hr/pds/doktorski_studij_iz_pravnih_znanosti/smjerovi_studija_s_opisom_kolegija/opci_smjer, accessed 14 August 2017.

70 *Poslijediplomski doktorski studij iz pravnih znanosti na Pravnom fakultetu Sveučilišta u Zagrebu* <http://www.pravo.unizg.hr/images/50017172/Osnove%20pravne%20kulture.pdf>, accessed 14 August 2017.

71 *Proekt za ažuriranje n studiskata programa pravni nauki*, <http://www.pf.ukim.edu.mk/images/Studii/Pravni/TretCiklus/ElaboratPravniNaukiTretCiklus.pdf>, accessed 14 August 2017.

72 <http://www.pf.uni-lj.si/en/3rd-cycle/>, accessed 14 August 2017.

73 <http://www.ucg.ac.me/programi/pf>, accessed 14 August 2017.

Conclusion

As one of the world's major legal systems, Islamic law is studied at the law schools in most of the countries of the former Yugoslavia, which were the subject of this study, within the framework of *General Political and Legal History* or *Comparative Legal History/ Traditions* and *National Legal History* or *Political and Legal History*. Within these subjects, Islamic law is taught within a comparative historical and legal perspective or as a part of the former positive law of the Ottoman state.

The scope of the study of Islamic law varies in different states. For example, at the faculties of law at the universities of Sarajevo, Belgrade and Skopje, Islamic law is taught to a considerable extent at all three levels, while at the universities of Ljubljana and Podgorica it is not taught at all. In Sarajevo, Belgrade and Skopje, Islamic law is taught together with other great legal systems in a historical ("vertical comparison") and contemporary context ("horizontal comparison"), modelled on contemporary approaches to the study of Islamic law and legal cultures at academic institutions around the world.

On the other hand, bearing in mind the historical importance of Islamic law in Bosnia and Herzegovina (and certain other countries of the former Yugoslavia), where it was a part of the positive legal system from the establishment of Ottoman rule until the end of the Second World War, and given how relevant its contents remain for Muslims, regardless of the absence of a normative element, one could argue that the Islamic law is not paid the attention it deserves. This is confirmed by the fact that it is studied as one of the great legal systems of today at many academic institutions around the world – individually or in comparison with other legal systems (religious or secular).⁷⁴

On the other hand, bearing in mind the turbulent history of these states, the marginalisation of religion in the socialist period, the dissolution of the former Yugoslavia followed by war, etc., it is also arguable that the study of Islamic law is considerably more present than in previous periods. The curricula at public universities in the countries of the former Yugoslavia at the beginning of the 21st century in the main follow the institutional framework for the study of comparative law present in most Western universities within which Islamic law is taught.

74 Fikret Karčić, "How Islamic Law is Studied Today: An Overview", *Journal of Muslim Minority Affairs*, 39 (1), pp. 129-134.

Izučavanje islamskog prava na pravnim fakultetima javnih univerziteta u zemljama bivše Jugoslavije

Sažetak

Kao jedan od velikih svjetskih pravnih sistema, islamsko pravo se izučava na brojnim akademskim institucijama, uz primjenu različitih metodoloških pristupa i u različitim institucionalnim okvirima. Predmet ovog istraživanja je izučavanje islamskog prava na javnim univerzitetima u zemljama bivše Jugoslavije. Zasniva se na analizi nastavnih i izvedbenih planova i programa, udžbenika i ostale obavezne i dopunske literature na predmetima dodiplomskog, postdiplomskog i doktorskog studija.

Na skoro svim pravnim fakultetima u zemljama bivše Jugoslavije koji su bili predmet ove analize, islamsko pravo se izučava u okviru Opće historije države i prava ili Komparativne pravne historije/Uporedne pravne tradicije i Nacionalne historije države i prava ili Nacionalne pravne historije. U okviru ovih predmeta islamsko pravo se izučava u komparativnoj historijsko-pravnoj perspektivi i kao dio nekadašnjeg pozitivnog prava za vrijeme osmanske vlasti.

Obim izučavanja islamskog prava razlikuje se u različitim državama. Na primjer, na pravnim fakultetima u Sarajevu, Beogradu i Skoplju izučava se na svim nivoima studija, dok se u Podgorici i Skoplju ne izučava uopće.

U Sarajevu, Beogradu i Skoplju, islamsko pravo se uporedo izučava sa drugim velikim pravnim sistemima u historijskoj i savremenoj dimenziji, primjenjujući savremene pristupe u izučavanju islamskog prava, i pravnih kultura uopće, na akademskim ustanovama širom svijeta.

Imajući u vidu turbulentnu prošlost ovih država, marginalizaciju religije (i time i religijskog prava) tokom socijalističkog perioda, kao i činjenicu da ovi fakulteti obrazuju svjetovne pravnike, obim izučavanja islamskog prava na javnim univerzitetima u zemljama bivše Jugoslavije dovoljan je za profil stručnjaka koji se na njima obrazuju.

Ključne riječi: islamsko pravo, pravna historija, bivša Jugoslavija, pravni fakulteti, javni univerziteti